Approved: Z. Zornberg

LISA ZORNBERG / ZACHARY FEINGOLD
Assistant United States Attorney

Before: HONORABLE DEBRA FREEMAN
United States Magistrate Judge
Southern District of New York

10 MAG 507

UNITED STATES OF AMERICA	:	**SEALED**
	:	**COMPLAINT**
-v.-	:	Violation of
	:	18 U.S.C. §§ 215, 514(a),
CHARLES J. ANTONUCCI, SR.,	:	656, 1001, 1005, 1341,
	:	1343, 1344, and 2
Defendant.	:	
	:	COUNTY OF OFFENSE:
	:	NEW YORK

SOUTHERN DISTRICT OF NEW YORK, ss.:

RICARDO E. VELEZ, being duly sworn, deposes and says that he is Director of the Criminal Investigations Bureau of the New York State Banking Department ("NYSBD"), and charges as follows:

COUNT ONE

(Fraud on the FDIC Related to the $6.5 Million Round-Trip Transaction)

1. From in or about 2008 through in or about 2009, in the Southern District of New York and elsewhere, CHARLES J. ANTONUCCI, SR., the defendant, unlawfully, willfully, and knowingly, did make false entries in books, reports, and statements of an insured bank with intent to defraud such bank, and individual persons, and to deceive officers of such bank, and the Federal Deposit Insurance Corporation ("FDIC"), and agents and examiners appointed to examine the affairs of such bank, to wit, ANTONUCCI engaged in a scheme to defraud the FDIC and the New York State Banking Department ("NYSBD") in connection with their regulation of The Park Avenue Bank by falsely representing that ANTONUCCI had invested $6.5 million of his own funds to provide additional capital to the Bank, when, in truth and in fact, ANTONUCCI devised an elaborate round-trip loan transaction so that the purported $6.5 million investment was actually made with the Bank's own funds.

(Title 18, United States Code, Sections 1005 and 2.)

COUNT TWO

(False Statements Related to Application for TARP Funds)

2. From at least in or about October 2008 through in or about February 2009, in the Southern District of New York and elsewhere, CHARLES J. ANTONUCCI, SR., the defendant, in a matter within the jurisdiction of the FDIC and the United States Department of Treasury (the "Treasury Department"), departments and agencies of the executive branch of the Government of the United States, unlawfully, willfully, and knowingly falsified, concealed, and covered up by trick, scheme and device material facts, made materially false, fictitious, and fraudulent statements and representations, and made and used false writings and documents knowing the same to contain material false, fictitious and fraudulent statements and entries, to wit, ANTONUCCI made material false statements, and caused material false statements to be made, in connection with The Park Avenue Bank's application for an $11,252,480 investment from the Capital Purchase Program of the Troubled Asset Relief Program ("TARP"), regarding the Bank's capital and ANTONUCCI's purported investment of $6.5 million in the Bank.

(Title 18, United States Code, Sections 1001 and 2.)

COUNT THREE

(Mail Fraud Related to Application for TARP Funds)

3. From at least in or about October 2008 through at least in or about February 2009, in the Southern District of New York and elsewhere, CHARLES J. ANTONUCCI, SR., the defendant, unlawfully, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, for the purpose of executing such scheme and artifice and attempting so to do, unlawfully, willfully, and knowingly did place in a post office and authorized depository for mail matter, matters and things to be sent and delivered by the Postal Service, and caused to be delivered by mail according to the direction thereon, and at the place it was directed to be delivered by the person to whom it was addressed, such matters and things, to wit, ANTONUCCI engaged in a scheme to defraud by making, and causing others to make, material false statements in connection with The Park Avenue Bank's application for an $11,252,480 investment from the CPP of the TARP, in an effort to fraudulently induce the United States Government to provide the requested TARP funds.

(Title 18, United States Code, Sections 1341 and 2.)

COUNT FOUR

(Bank Fraud Related to USIG Loans)

4. In or about 2008, in the Southern District of New York and elsewhere, CHARLES J. ANTONUCCI, SR., the defendant, unlawfully, willfully, and knowingly, did execute and attempt to execute a scheme and artifice to defraud a financial institution, the deposits of which were then insured by the FDIC, and to obtain moneys, funds, credits, assets, and other property owned by, and under the custody and control of, such financial institution, by means of false and fraudulent pretenses, representations, and promises, to wit, as part of a scheme to obtain millions of dollars for his own use, including to obtain a controlling interest in The Park Avenue Bank, ANTONUCCI fraudulently approved loans from the Bank to another entity for the stated purpose of increasing that entity's working capital, when the actual purpose of the loans was to generate cash that could then be immediately transferred to ANTONUCCI for use in his scheme.

(Title 18, United States Code, Sections 1344 and 2.)

COUNT FIVE

(Bank Fraud Related to the Easy Wealth Loan)

5. From at least in or about 2006 through in or about 2009, in the Southern District of New York and elsewhere, CHARLES J. ANTONUCCI, SR., the defendant, unlawfully, willfully, and knowingly did execute and attempt to execute a scheme and artifice to defraud a financial institution, the deposits of which were then insured by the Federal Deposit Insurance Corporation, and to obtain moneys, funds, credits, assets, and other property owned by, and under the custody and control of, such financial institution, by means of false and fraudulent pretenses, representations, and promises, to wit, as part of a scheme to obtain money for his own use, ANTONUCCI caused a false and fraudulent loan application to be submitted to The Park Avenue Bank, and personally approved loans of $400,000 from the Bank to an entity that ANTONUCCI knew was not credit-worthy, in order to enrich himself and another individual.

(Title 18 United States Code, Sections 1344 and 2.)

COUNT SIX

(Bank Bribery Related to the Easy Wealth Loan)

6. From in or about 2006 through in or about 2009, in the Southern District of New York and elsewhere, CHARLES J. ANTONUCCI, SR., the defendant, as an officer, director, and agent of a financial institution, unlawfully, willfully, knowingly, and corruptly solicited and demanded for his own benefit and for the benefit of other persons, and corruptly accepted and agreed to accept, things of value from persons, intending to be influenced and rewarded in connection with business and transactions of such institution, to wit, ANTONUCCI, as President and CEO of The Park Avenue Bank, personally approved a business loan to Easy Wealth and then solicited and received $70,000 out of the loan proceeds from that transaction.

(Title 18, United States Code, Sections 215 and 2.)

COUNT SEVEN

(Bank Bribery Related to CC-1)

7. From in or about 2007 through in or about 2009, in the Southern District of New York and elsewhere, CHARLES J. ANTONUCCI, SR., the defendant, as an officer, director, and agent of a financial institution, unlawfully, willfully, knowingly, and corruptly solicited and demanded for his own benefit and for the benefit of other persons, and corruptly accepted and agreed to accept, things of value from persons, intending to be influenced and rewarded in connection with business and transactions of such institution, to wit, ANTONUCCI, as President and CEO of The Park Avenue Bank, permitted entities owned by a co-conspirator not named herein ("CC-1") to receive millions of dollars of loans and overdraft funds at the Bank in exchange for, among other things of value, (i) ANTONUCCI's use of CC-1's airplane for personal trips and (ii) the use of accounts maintained by CC-1's entities to funnel Bank funds to ANTONUCCI.

(Title 18, United States Code, Sections 215 and 2.)

COUNT EIGHT

(Counterfeit Certificate of Deposit)

8. In or about 2009, in the Southern District of New York and elsewhere, CHARLES ANTONUCCI, the defendant, unlawfully, willfully, and knowingly, and with intent to defraud, did draw, print, process, produce, publish, and otherwise make, and did pass, utter, present, offer, broker, issue, and sell, and did attempt and cause the same, and with like intent did possess, within the United States, a false and fictitious instrument, document, and other item appearing, representing, purporting, and contriving through scheme and artifice, to be an actual security and other financial instrument issued under the authority of the United States and an organization, to wit, ANTONUCCI, with intent to defraud, made and caused to be made a counterfeit certificate of deposit of the Bank in the amount of $2.3 million to be published and presented to General Employment Enterprise, Inc. ("GEE"), to cover up the transfer of $2.3 million in cash out of GEE's account into an account owned and controlled by ANTONUCCI at The Park Avenue Bank.

(Title 18, United States Code, Sections 514(a) and 2.)

COUNT NINE

(Wire Fraud Related to the Florida Investment Scam)

9. In or about 2009, in the Southern District of New York and elsewhere, CHARLES J. ANTONUCCI, SR., the defendant, and others known and unknown, unlawfully, willfully, and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, did transmit, and cause to be transmitted, by means of wire communication in interstate commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, to wit, ANTONUCCI participated in a fraudulent investment scheme through which another participant in the scheme not named herein ("CC-4") caused the pastors of a church in Coral Springs, Florida, to wire $103,940 from a bank account in Florida to a bank account at The Park Avenue Bank in Manhattan that was controlled by ANTONUCCI.

(Title 18, United States Code, Sections 1343 and 2.)

COUNT TEN

(Embezzlement and Misappropriation of Bank Funds)

10. From in or about 2006 through in or about 2009, in the Southern District of New York and elsewhere, CHARLES J. ANTONUCCI, SR., the defendant, being an officer, director, agent and employee of, and connected in a capacity with an insured bank, did embezzle, abstract, purloin and willfully misapply the moneys, funds, and credits of such bank, to wit, ANTONUCCI, as President and CEO of The Park Avenue Bank, embezzled and misapplied funds from the Bank for his personal use by, among other things, (i) having the Bank pay money to lease properties owned by ANTONUCCI in Fishkill, New York which the Bank did not use; and (ii) causing the Bank to issue loans to companies or entities which ANTONUCCI had a financial stake.

(Title 18, United States Code, Sections 656 and 2.)

The bases for my knowledge and the foregoing charges are, in part, as follows:

11. I am the Director of the Criminal Investigations Bureau of the New York State Banking Department. I have held this position since approximately October 2008. Prior to that, I had served as the Assistant Director of the Criminal Investigations Bureau since approximately April 2007. My prior law enforcement experience included approximately five years in which I served as Assistant Attorney General to the Office of the New York State Attorney General, focusing on frauds in the financial sector. I also served for approximately six years as an Assistant District Attorney with the New York County District Attorney's Office. I have personally participated in this investigation together with agents from the NYSBD; U.S. Department of Homeland Security, Immigration and Customs Enforcement, Office of Investigations ("DHS-ICE"); the Office of the Special Inspector General for the Troubled Asset Relief Program ("SIGTARP"); the Federal Bureau of Investigation ("FBI"); and the Federal Deposit Insurance Corporation Office of Inspector General ("FDIC-OIG"). This affidavit is based upon my conversations with law enforcement agents and witnesses, and my examination of documents, including reports, records, and interview notes. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

I. BACKGROUND ON PARK AVENUE BANK, ITS REGULATORS, AND THE DEFENDANT

12. From my review of records maintained by the NYSBD and the FDIC, I have learned that The Park Avenue Bank ("the Bank") was established in or about 1987, and has been FDIC insured since 1987. From in or about 1987 through in or about 2004, the Bank held a national charter with the Office of the Comptroller of the Currency ("OCC"). In or about 2004, after a recapitalization and change in management at the Bank, the Bank sought and obtained approval to become a New York State chartered bank. The Bank has been subject to the banking laws and regulations of the FDIC since 1987, and of the NYSBD since 2004.

13. Since in or about 2004, the Bank was headquartered at 460 Park Avenue, 13th Floor, in Manhattan, and had approximately four retail branches located in Manhattan and Brooklyn. The Bank was primarily a small business bank that, among other things, made commercial and real estate loans, extended lines of credit, and maintained customer accounts. As of on or about December 31, 2009, the Bank had total assets of approximately $520.1 million, and total deposits of approximately $494.5 million. As of that time, the Bank had approximately 66 employees.

14. Park Avenue Bancorp, Inc. (the "Bank Holding Company") is a Delaware corporation that, at the time of its inception in or about 2004, owned the majority of the common stock of the Bank. I have reviewed a Change of Control Application that CHARLES J. ANTONUCCI, the defendant, submitted, or caused to be submitted, to the NYSBD in or about March 2009, seeking the NYSBD's approval for ANTONUCCI to acquire formal control of the Bank through ownership of a majority of shares of the Bank Holding Company's common stock (the "Change of Control Application"). Based on sworn statements made by ANTONUCCI in the Change of Control Application, prior to on or about October 17, 2008, ANTONUCCI indirectly held 8,268 shares (approximately 1.36%) of the Bank Holding Company's common stock. Also based on those statements, as of March 3, 2009, ANTONUCCI, through purported purchases of the Bank Holding Company's common stock in or about October and November 2008, had beneficial ownership of 316,617 shares (approximately 52%) of the Bank Holding Company's outstanding common stock.

15. From my review of documents obtained from the Bank and the NYSBD over the course of this investigation, I have learned that from in or about June 2004 through in or about October 2009, CHARLES J. ANTONUCCI, SR., the defendant, was President and Chief Executive Officer ("CEO") of the Bank, and one of the Bank's

directors. According to information provided to the FDIC, ANTONUCCI's annual salary from the Bank was approximately $250,000 per year. ANTONUCCI resigned from his positions with the Bank on or about October 30, 2009.

16. In addition to his ownership interests in and management position at the Bank, CHARLES J. ANTONUCCI, SR., the defendant, maintained significant interests in several other businesses wholly-unrelated to the Bank. For example, at all times relevant to this Complaint, ANTONUCCI was the majority owner of Bedford Consulting Group, Inc. ("Bedford"), a New York State corporation, operated out of 1042 Main Street, Fishkill, New York. Bedford's purported line of business was to provide loan review services, primarily for banks. While Bedford may have in fact provided such services, ANTONUCCI, as discussed below, attempted to use Bedford to funnel the Bank's money to himself.

17. Pursuant to FDIC and NYSBD rules and regulations, the Bank must make certain regular disclosures to these regulators demonstrating that the Bank is financially sound, and is sufficiently capitalized. As described in greater detail below, both the FDIC and NYSBD require banks such as the Bank to maintain certain levels of capital. Banks that do not maintain appropriate capital are subject to restrictions until they raise additional capital to meet regulatory capital requirements. In the event that a bank is deemed to be undercapitalized, the NYSBD may take possession of the bank's business and property in order to protect depositors and the public. The NYSBD has statutory authority to then appoint a receiver for the bank.

18. On or about March 12, 2010, at approximately 5:00 p.m., Richard H. Neiman, Superintendent of Banks for New York State, closed the Bank, citing ineffective management and inadequate capital, and immediately appointed the FDIC as receiver.

19. As set forth more fully below, I believe that CHARLES J. ANTONUCCI, SR., the defendant, and others known and unknown, engaged in various schemes to defraud the Bank and its regulators while ANTONUCCI was the President and CEO of the Bank. ANTONUCCI also engaged in significant self-dealing, obtaining illicit payments and benefits from customers of the Bank, sometimes in exchange for direct benefits such as inappropriate extensions of lines of credit and/or loans to Bank customers. In furtherance of the scheme to defraud the Bank's regulators, ANTONUCCI perpetrated a round-trip transaction designed to deceive the FDIC and NYSBD into believing that ANTONUCCI had invested approximately $6.5 million of his own money in the Bank to

improve its capital structure, when, in truth and in fact, ANTONUCCI merely took the funds from the Bank itself; in reality, the Bank received no additional capital from the transaction. ANTONUCCI also used that sham transaction to support his application, on behalf of the Bank, for millions of dollars in funds made available pursuant to the Treasury Department's TARP Capital Purchase Program ("the TARP Program").

II. THE EASY WEALTH SELF-DEALING SCHEME

20. Pursuant to the terms of the Bank's credit policy, in his capacity as President of the Bank, CHARLES J. ANTONUCCI, SR., the defendant, had limited personal authority to approve commercial loans. ANTONUCCI was permitted to personally authorize loans of less than $1.5 million. Loans or extensions of credit of more than $1.5 million required review and approval by the Bank's credit committee.

21. From speaking to a cooperating witness ("CW-1")[1] and with agents who interview CW-1, I have learned that CW-1 has provided the following information, in substance and in part:

a. In or about early 2006, CW-1 was approached by CHARLES J. ANTONUCCI, SR., the defendant, who was then the President and CEO of the Bank. ANTONUCCI advised CW-1 about a business opportunity relating to a company called Easy Wealth Group Ltd. ("Easy Wealth"). ANTONUCCI told CW-1, in substance and in part, that Easy Wealth was a company owned by ANTONUCCI; Easy Wealth was in the business of importing custom-designed promotional and marketing merchandise such as pens and lapel pins; Easy Wealth was losing money; and ANTONUCCI was hoping to recoup his investment. ANTONUCCI offered to give Easy Wealth to CW-1 to take over, and told CW-1 he could obtain financing from the Bank. ANTONUCCI knew that CW-1 was out of work and had no money of his own to put into the company.

b. In or about May 2006, as a result of CW-1's discussions with ANTONUCCI, CW-1 agreed to take over Easy Wealth and apply to the Bank for a loan. CW-1 did not pay any money or give anything of value to ANTONUCCI in connection with his assumption of the role of President of Easy Wealth. ANTONUCCI

---

[1] CW-1 is an individual who is cooperating with the Government in the hope of avoiding criminal prosecution and/or obtaining a cooperation agreement with the Government. The information provided by CW-1 is corroborated by other records, as set forth herein.

retained ownership of 100% of Easy Wealth's stock.

c. ANTONUCCI assisted CW-1 in preparing Easy Wealth's loan application to the Bank. ANTONUCCI gave CW-1 a software program to use to create a business plan summary. CW-1 also met with ANTONUCCI at ANTONUCCI's office to discuss what needed to be included in CW-1's personal financial statement to be submitted in support of the Easy Wealth loan. ANTONUCCI advised CW-1 to list personal assets that both ANTONUCCI and CW-1 knew to be false.

d. CW-1 also showed ANTONUCCI the business plan summary that CW-1 had prepared. ANTONUCCI reviewed the business plan summary; verbally indicated to CW-1, in substance and in part, that it looked fine; and forwarded it to the Bank's loan department. In fact, the business plan summary prepared by CW-1 contained material false statements, which ANTONUCCI knew were false. Among them:

(i) The business plan summary stated that Easy Wealth was founded in 2004 by CW-1. In fact, CW-1 was not the founder of Easy Wealth, and only became involved in Easy Wealth in or about 2006, at ANTONUCCI's invitation, shortly before the loan application was made.

(ii) The business plan summary contained a falsified profit and loss statement indicating that Easy Wealth had earned net profits in 2005 of approximately $98,000. In fact, Easy Wealth had net losses in 2005, as ANTONUCCI had told CW-1 during their initial meeting.

e. As a result of the loan application, which contained numerous false statements prepared with ANTONUCCI's guidance, in or about April 2006, the Bank approved a loan of $300,000, in the form of a revolving line of credit, to Easy Wealth. CW-1 personally guaranteed the loan.

f. In or about June 2006, within a few weeks of the Bank's approval of the $300,000 loan to Easy Wealth, ANTONUCCI approached CW-1 for a $40,000 "loan." ANTONUCCI told CW-1 to draw the funds down on the $300,000 line of credit that Easy Wealth had just received from the Bank. ANTONUCCI stated that he would repay the money within a few months. ANTONUCCI directed CW-1 to send the money, by check, to the "Bedford Consulting Group," an entity that CW-1 believed was owned by ANTONUCCI or ANTONUCCI's family member. CW-1 consented and sent the check for $40,000.

g. A short time later, ANTONUCCI approached CW-1 for an additional "loan" of $30,000. Again, ANTONUCCI told CW-1 to draw the funds down on the $300,000 line of credit that Easy Wealth had just received from the Bank. Once again, CW-1 sent the check to the "Bedford Consulting Group."

h. Because the $70,000 that CW-1 gave to ANTONUCCI was from Easy Wealth's loan proceeds provided by the Bank, CW-1 was required to make interest payments on that money, and did so.

i. After exhausting the initial $300,000 credit line, CW-1 spoke to ANTONUCCI on one or more occasions, to request that Easy Wealth's credit line be increased. The Bank in fact increased the total loan amount to $400,000.

j. After CW-1 made repeated requests for repayment, ANTONUCCI eventually repaid CW-1 part of the $70,000 loaned to him from the Easy Wealth loan proceeds, approximately one or two years after receiving it. ANTONUCCI gave CW-1 $50,000, in the forms of checks and cash. ANTONUCCI never repaid the remaining $20,000, and never repaid CW-1 for any of interest payments incurred by CW-1 on the $70,000.

k. In or about June 2009, Easy Wealth ceased to operate and CW-1 filed for personal bankruptcy. At the time, Easy Wealth owed the Bank the entire $400,000 amount of the loan.

22. I have reviewed the Bank's loan file relating to Easy Wealth, which shows the following:

a. In a document dated April 10, 2006, CHARLES J. ANTONUCCI, SR., the defendant, as President of the Bank, personally approved the $300,000 loan to Easy Wealth. The Bank's notice of final agreement indicates a loan date of May 18, 2006.

b. Subsequently, ANTONUCCI personally approved multiple Bank increases to the total loan amount to Easy Wealth, including an increase to $325,000 in or about November 2007; to $350,000, in or about January 2008; and to $400,000 in or about March 2008.

c. The terms of the initial loan agreement between the Bank and Easy Wealth required Easy Wealth to repay the loan principal in full by in or about May 2007. However, ANTONUCCI personally authorized two one-year extensions of the loan maturity date, from approximately May 2007 to May 2008, and then from approximately May 2008 to May 2009. A handwritten notation in the loan file indicates that ANTONUCCI authorized at least one

of these extensions with "no fees" to Easy Wealth.

d. On or about April 29, 2009, ANTONUCCI approved a further 90-day extension of the maturity date on the loan to Easy Wealth. The stated reason for the extension was that "[t]his extension will afford time to the company to supply the Bank with current financial information to renew for 12 months."

e. The loan to Easy Wealth defaulted. On or about June 23, 2009, the $400,000 loan to Easy Wealth was charged off by the Bank, causing a loss to the Bank of approximately $400,000.

23. I have reviewed bank records for Easy Wealth's checking account at the Bank. Those records show that:

a. On or about June 6, 2006, Easy Wealth issued a check in the amount of $40,000 check to "Bedford Consulting Group, Inc."

b. On or about June 20, 2006, Easy Wealth issued a check in the amount of $30,000 to "Bedford Consulting Group, Inc."

24. Under various regulations and internal Bank rules -- including FDIC "Regulation O," 12 C.F.R. § 215, and the Bank's Code of Ethics and Conduct, as an officer and director of the Bank, CHARLES J. ANTONUCCI, SR., the defendant, was required to disclose his interest in any entity with which the Bank dealt to the Bank's Board of Directors. I and others have conducted interviews of numerous members of the Bank's Board of Directors. An agent participating in this investigation has also reviewed minutes of certain of the Bank's Board of Directors meetings. Based upon those interviews, the review of those board minutes and the rest of the investigation to date, no evidence has been uncovered to indicate that ANTONUCCI ever disclosed his interest in Easy Wealth to the Bank's Board of Directors.

25. I have reviewed a personal financial statement signed by CHARLES J. ANTONUCCI, SR., the defendant, on or about October 6, 2008, and submitted to the Oklahoma Insurance Department in connection with his purchase of an insurance company later renamed the "Park Avenue Property and Casualty Insurance Company." In that statement, ANTONUCCI reported that he owned 100% of Easy Wealth. ANTONUCCI further stated that his original investment in Easy Wealth was $50,000, and that Easy Wealth had a value of $100,000.

26. Additionally, in his Change of Control Application filed with the NYSBD, ANTONUCCI represented under penalty of perjury, that he was the 100% owner of Easy Wealth.

III. ANTONUCCI'S CRIMINAL CONDUCT WITH CC-1 AND THE OXYGEN-RELATED ENTITIES

A. Background

27. As set forth in greater detail below, CHARLES J. ANTONUCCI, SR., the defendant, engaged in several of the schemes described herein, including self-dealing/embezzlement and efforts to deceive the Bank's regulators, with a co-conspirator not named herein ("CC-1").

28. From numerous interviews conducted by myself and others of current and former managers, officers, directors and administrative staff of the Bank, I have learned the following regarding CC-1:

a. CC-1 was a customer of the Bank from at least in or about 2007 through in or about 2010. CC-1 brought numerous deposit accounts to the Bank, and submitted, or caused to be submitted, applications for numerous Bank loans, in the names of different, related entities. Bank employees and directors referred to those various entities collectively as the "[CC-1] entities," or the "Oxygen-related entities."

b. CC-1 frequently visited the Bank's headquarters at 460 Park Avenue, typically meeting with CHARLES J. ANTONUCCI, SR., the defendant.

c. As relevant to this Complaint, the Oxygen-related entities included, among others: Oxygen Unlimited LLC ("Oxygen Unlimited"), Oxygen Unlimited II LCC ("Oxygen Unlimited II"), O2HR, LLC; H2H Holdings; PSQ, LLC; River Falls Financial Services ("River Falls"); SDH Realty Inc. and TSV Capital, LLC ("TSV Capital").

d. CC-1 had a group of approximately five close associates who at times accompanied CC-1 during visits to the Bank, and whose names were listed on the accounts of the Oxygen-related entities. One such associate of CC-1 was a second co-conspirator not named herein ("CC-2").

29. An agent and I have reviewed Bank records relating to the Oxygen-related entities and documents that were produced to the Government by the Oxygen-related entities. An agent and I

have also reviewed reports by FDIC examiners analyzing the inter-relationship between and among the various Oxygen-related entities and other entities associated with CC-1. Those records and reports reflect, among other things, that:

a. The Oxygen-related entities used a common business mailing address in Louisville, Kentucky.

b. CC-1's administrative assistant ("CC-1's Assistant") was an authorized signer for nearly all of the Oxygen-related accounts at the Bank, and was authorized to make transfers of money between and among the different Oxygen-related accounts.

c. CC-1 was generally not listed as an account holder or signatory on the Oxygen-related accounts, although he was a guarantor of certain loans made to the Oxygen-related entities. Instead, CC-1's Assistant and his close associates (among the same common group of approximately five individuals) were listed on the accounts.

d. CC-2 was an account holder for, and was represented in documentation provided to the Bank as being an owner, part-owner, manager, member and employee of, various Oxygen-related entities, including PSQ, Inc., TSV Capital, H2H Holdings and River Falls.

e. U.S. Insurance Group ("USIG") is another entity connected to the Oxygen-related entities, and which also maintained accounts at the Bank. As with the other Oxygen-related entities, CC-1's Assistant was an account signer on USIG's accounts at the Bank. In addition, 2007 records submitted to the Bank by Oxygen Unlimited reflect that Oxygen Unlimited owned a "put option" on 25 percent of USIG. USIG declared bankruptcy in or about April 2009.

B. ANTONUCCI's Use of CC-1's Private Planes

30. From my interviews of several witnesses, and my review of certain documents, I believe that despite the significant dealings that CC-1, personally and through the Oxygen-related entities, had with the Bank, CHARLES J. ANTONUCCI, SR., the defendant, obtained free flights on CC-1's private plane.

31. I have spoken to a witness ("W-1") who stated, in substance and in part:

a. In or about 2008 and 2009, W-1 was an employee of the Bank. W-1 reported to CHARLES J. ANTONUCCI, SR., the defendant, and handled administrative matters for him.

b. W-1 knows that ANTONUCCI used CC-1's private plane on approximately 10 or more occasions. W-1 made the flight arrangements for ANTONUCCI, at ANTONUCCI's direction, by communicating with CC-1's Assistant.

c. Flights taken by ANTONUCCI using CC-1's plane included, among others, a flight to Florida to visit ANTONUCCI's relative, a flight to Phoenix, Arizona to attend the Super Bowl, and a flight to Panama.

d. As part of W-1's job responsibilities, W-1 received and reviewed invoices and bills relating to ANTONUCCI's expenses. W-1 also regularly reviewed ANTONUCCI's business credit card statements. At no time in 2008 or 2009 did W-1 see any invoice or charge to ANTONUCCI or the Bank relating to the flights ANTONUCCI took on CC-1's plane.

e. In or about 2009, there was an occasion when certain checks written on the account of an Oxygen-related entity were returned because the Bank did not authorize additional overdrafts to cover payment of the checks. Shortly thereafter, W-1 was informed by CC-1's Assistant that ANTONUCCI would not be permitted to utilize CC-1's plane for a planned upcoming trip.

32. I have spoken to a witness ("W-2"), who was an officer at the Bank in or about 2008. W-2 stated, in substance and in part:

a. In or about early 2008, W-2 flew to the Super Bowl in Phoenix, Arizona with CHARLES J. ANTONUCCI, SR., the defendant, and others, at ANTONUCCI's invitation. They flew on CC-1's private plane. CC-1 was not there, and W-2 did not pay for his flight. After they returned from the trip, W-2 asked ANTONUCCI if he and ANTONUCCI should provide reimbursement for the plane ride. ANTONUCCI responded, in substance and in part, that he and W-2 would not make any such payment.

b. In or about April 2008, W-2 took another plane trip with ANTONUCCI on CC-1's private plane. CC-1 was not there. ANTONUCCI and W-2 flew from New York to Augusta, Georgia, to watch the Masters golf tournament. ANTONUCCI and W-2 flew back the same day on CC-1's plane. W-2 did not pay any money toward these flights and is not aware of ANTONUCCI making any such payments.

33. I have reviewed emails obtained from CC-1's entities, dated in or about September 2007, in which CC-1's Assistant communicated with an assistant to CHARLES J. ANTONUCCI, SR., the defendant, about arranging an upcoming flight for ANTONUCCI on CC-1's plane.

34. I have spoken with agents who have reviewed Bank records, and they have informed me that, in or about 2008 and 2009, during the same time period when CHARLES J. ANTONUCCI, SR., the defendant, used CC-1's private plane, the Oxygen-related entities owed millions of dollars in overdrafts to the Bank, on various of its accounts. For example, the overdrafts grew in excess of $8 million in or around May 2009. Agents and I have interviewed multiple Bank employees who have stated that they sought ANTONUCCI's approval of such incremental overdraft items, and that ANTONUCCI typically authorized the overdrafts to be paid on the accounts of the Oxygen-related entities.

C. The $6.5 Million Round-Trip Transaction

35. From my experience working at the NYSBD, from speaking with examiners of the NYSBD FDIC, and from my review of documents obtained from the Bank, the NYSBD, and the FDIC, I learned the following:

a. Under federal regulations, banking institutions whose deposits are insured by the FDIC are subject to periodic examinations to ensure that they meet certain capital requirements. New York State law provides similar requirements for state-chartered banks. The FDIC and NYSBD conduct joint examinations for banks within their dual supervising authority.

b. The FDIC and NYSBD use a system to rate banks as "well-capitalized," "adequately capitalized," or "undercapitalized." (Additional ratings include "significantly undercapitalized," and "critically undercapitalized.") Banks that are "adequately capitalized" are required to obtain permission from the regulators to engage in certain banking transactions. Banks that are "undercapitalized" are prohibited from engaging in certain types of banking transactions, and are subject to a range of potential enforcement actions by regulators.

c. On or about August 20, 2008, the FDIC informed Park Avenue Bank's Board of Directors that, as of March 31, 2008, the Bank was merely "adequately capitalized," and informed the Bank of the applicable restrictions.

36. As set forth below in detail, by in or about September 2008, the Bank's capital situation had worsened and the Bank was "undercapitalized."

37. In or about October and November of 2008, CHARLES J. ANTONUCCI, SR., the defendant, announced his purported investment of $6.5 million of his personal funds into the Bank. In communications with the FDIC, ANTONUCCI emphasized that his personal investment of the $6.5 million should be favorably considered by the FDIC (i) as stabilizing the Bank's capitalization problems, (ii) to permit the Bank to engage in certain banking transactions that it would otherwise be prohibited from engaging in, and (iii) in evaluating the Bank's application for funds distributed through the TARP Program. As the investigation has revealed, however, and as set forth below in detail, the source of the $6.5 million that ANTONUCCI purportedly invested into the Bank was in fact the Bank's own money. ANTONUCCI engaged in a series of deceptive, round-trip transactions, in which the Bank loaned funds totaling $6.5 million to Oxygen-related entities and USIG; those entities transferred the $6.5 million to ANTONUCCI; and ANTONUCCI then re-deposited the $6.5 million into the Bank, claiming these were his personal funds that he was investing to recapitalize the Bank. A diagram of the $6.5 million transaction is attached hereto as Exhibit A.

38. As detailed below, a total of $6.5 million was transferred to CHARLES J. ANTONUCCI, SR., the defendant, from the Oxygen-related entities and USIG, and subsequently invested in the Bank by ANTONUCCI in three segments: (i) transfers of $2.6 million in or about October 2008; (ii) transfers of $2.4 million in or about October 2008; and (iii) transfers of $1.5 million in or about November 2008. Each segment is discussed below.

(1) October 8, 2008: ANTONUCCI's Purported $2.6 Million Capital Investment

39. I have reviewed the final report of examination of the Bank that was conducted by FDIC and NYSBD examiners beginning on or about July 21, 2008. In their report, the examiners found the overall condition of the Bank to be "deficient," specifically noting problems with the Bank's capital. The regulators downgraded the Bank's capital rating from "well-capitalized" to "adequately capitalized." The report noted that the Bank's capital problem had been discussed with CHARLES J. ANTONUCCI, SR., the defendant.

40. At all times relevant to the Complaint, the Bank was required, by regulation, to file quarterly reports - often referred to as "call reports" - containing data about the capitalization level and health of the institution. I have reviewed the Bank's "call report" for the third quarter of 2008. It shows that, as of September 30, 2008, the Bank's capital position had further worsened, and that the Bank was undercapitalized as of that date.

41. I have reviewed minutes of a Bank Board of Directors meeting held on October 8, 2008. The minutes reflect that "on the Morning of Monday, October 6, 2008," CHARLES J. ANTONUCCI, SR., the defendant, and certain other officers and directors of the Bank attended a meeting with the FDIC and NYSBD, at the request of the regulators, due to the regulators' serious concern about the Bank's viability and the need to raise capital. As the minutes reflect, the Bank needed to restore its capital position to "adequately capitalized," and obtain an FDIC waiver by October 8, 2008, in order to be able to continue accepting brokered deposits.[2]

42. I have reviewed a letter that CHARLES J. ANTONUCCI, SR., the defendant, signed and sent to the FDIC on or about October 8, 2008. The letter states, in relevant part, as follows:

> To ensure that The Park Avenue Bank is deemed adequately capitalized as defined by applicable FDIC regulations, it is necessary that it receive an immediate capital infusion of approximately $2.6 million. **I have agreed to personally invest this money in the Bank**, and the necessary funds are currently on deposit at the Bank. However, please note that my agreement to make this investment is

---

[2] The Federal Reserve Commercial Bank Examination Manual describes "brokered deposits" as follows: "As defined in Federal Deposit Insurance Corporation (FDIC) regulations, brokered deposits are funds a depository institution obtains, directly or indirectly, from or through the mediation or assistance of a deposit broker, for deposit into one or more deposit accounts. Thus, brokered deposits include both those in which the entire beneficial interest in a given bank deposit account or instrument is held by a single depositor and those in which the deposit broker pools funds from more than one investor for deposit in a given bank deposit account."

> premised on the understanding that FDIC will immediately grant the Bank's pending request for a waiver for the acceptance of brokered deposits.

(emphasis added).

43. I have spoken with W-3, an examiner of the FDIC, who informed me, in substance and in part, that following the purported investment of additional capital by CHARLES J. ANTONUCCI, SR., the defendant, the FDIC did permit the Bank to engage in certain brokered deposits transactions.

44. From my analysis of Bank records, I and others have determined that the $2.6 million that CHARLES J. ANTONUCCI, SR., the defendant, purportedly invested in the Bank in October 2008 was in fact money that Oxygen-related entities transferred to ANTONUCCI from their accounts at the Bank, and then replaced with Bank funds, through a loan that ANTONUCCI had approved. Specifically, the records show the following:

a. On or about October 6, 2008, Oxygen Unlimited, a company partially owned by CC-1, took $2.6 million from a line of credit approved by the Bank in or about December 2007, and subsequently increased by the Bank on or about April 9, 2008.[3] Documents submitted in support of the line of credit stated that the purpose of the funding was to provide "working capital." ANTONUCCI approved the original line of credit in or about December 2007.

b. After Oxygen Unlimited II received the $2.6 million from the Bank on or about October 6, 2008, the entire amount was transferred to the checking account of USIG maintained at the Bank (the "USIG Checking Account") the same day.

c. On that same date, on or about October 6, 2008, USIG wired the $2.6 million to a Bank of America account maintained by Bedford (the "Bedford BOA Account"). As noted in paragraph 16 of the Complaint, Bedford is a company owned by ANTONUCCI.

---

[3] The Bank approved the line of credit for Oxygen Unlimited, but the credit proceeds discussed herein were deposited in a Bank account maintained by Oxygen Unlimited II.

d. On or about October 7, 2008 - the following day - ANTONUCCI caused a check in the amount of $2.6 million to be written from the Bedford BOA Account, and deposited into ANTONUCCI's personal checking account at the Bank.

e. On or about October 8, 2008, ANTONUCCI wrote a check from his personal account to "Park Avenue Bank," as a capital investment, and sent the letter to the FDIC referenced above in paragraph 42, advising the FDIC of his personal investment of $2.6 million.

f. On or about October 14, 2008, the Bank increased the line of credit available to Oxygen Unlimited to $6.4 million. On or about October 15, 2008, Oxygen Unlimited drew down an additional $2.6 million in Bank funds from this line of credit, which proceeds were sent to Oxygen Unlimited II's account at the Bank.

(2) October 16: ANTONUCCI's Purported $2.4 million Capital Investment

45. I have reviewed bank records that show the following:

a. On or about October 14, 2008, Oxygen Unlimited obtained $1.6 million in Bank funds by drawing down on a previously approved line of credit for the purpose of "working capital." The $1.6 million from the Bank was deposited into Oxygen Unlimited II's account at the Bank.

b. On or about October 15, 2008, the entire $1.6 million was transferred from Oxygen Unlimited II to the USIG Checking Account.

c. On or about October 15, 2008, CHARLES J. ANTONUCCI, SR., the defendant, personally approved an $800,000 loan from the Bank to USIG. The stated purpose of that loan was to provide USIG with "working capital." On the same day the loan was approved, the entire loan amount of $800,000 was deposited into the USIG Checking Account.

d. Accordingly, on or about October 15, 2008, a total of $2.4 million was transferred into the USIG Checking Account: (i) $1.6 million from the Bank line of credit proceeds to Oxygen Unlimited, which Oxygen Unlimited II then transferred to USIG; and (ii) $800,000 in Bank loan proceeds to USIG.

e. On or about October 15, 2008 - the same day that the $2.4 million was transferred to the USIG Checking Account - USIG wired the entire $2.4 million into the Bedford BOA Account.

f. Also on or about October 15, 2008, ANTONUCCI caused a check from the Bedford BOA Account in the amount of $2.4 million, made payable to the Park Avenue Bank, to be deposited into his personal checking account at the Bank.

g. On or about October 16, 2008, ANTONUCCI wrote a personal check from his account at the Bank in the amount of $2.4 million, to "Park Avenue Bank," as a capital investment.

(3) November 17, 2008: Antonucci's Purported $1.5 million Capital Investment

46. From the review and analysis of bank records by myself and others, I learned the following:

a. On or about November 5, 2008, CHARLES J. ANTONUCCI, SR., the defendant, acting as President of the Bank, personally approved an increase of up to $2.5 million in the line of credit to USIG. As with the Oxygen Unlimited line of credit discussed above, documents submitted in support of the USIG line of credit stated that the purpose of the funding was to provide "working capital."

b. On or about Friday, November 7, 2008, $1.5 million of Bank funds, drawn down from the newly extended line of credit to USIG, were deposited into the USIG Checking Account.

c. On or about Monday, November 10, 2008, USIG wired $1.5 million from its Checking Account to the Bedford BOA Account.

d. On or about November 13, 2008, ANTONUCCI caused a check from the Bedford BOA Account in the amount of $1.5 million, made payable to the Park Avenue Bank, to be deposited into his personal checking account at the Bank.

e. On or about November 17, 2008, Antonucci wrote a personal check from his account at the Bank in the amount of $1.5 million to "Park Avenue Bank Corp.," as a capital investment.

47. Accordingly, from on or about October 8, 2008 through on or about November 17, 2008, CHARLES J. ANTONUCCI, SR., the defendant, claimed to have invested $6.5 million in the Bank. In truth and in fact, ANTONUCCI's investment was merely the final

leg of a fraudulent, round-trip transaction: the entire $6.5 million was comprised of Bank funds, and not ANTONUCCI's personal funds. As detailed above, these Bank funds were derived from loans and lines of credit to the Oxygen-related entities and USIG that ANTONUCCI had personally approved under the fraudulent pretense that the funds would be used as "working capital" for those entities. Moreover, the transfers of funds by the Oxygen-related entities and USIG to ANTONUCCI were immediate: on either the same day or within one business day of receiving the loan proceeds totaling $6.5 million, Oxygen Unlimited II and USIG transferred the loan proceeds to ANTONUCCI for his use.

48. In sum, these funds made their way back to the Bank, but under the guise of coming from CHARLES J. ANTONUCCI, SR., the defendant, personally, in the form of an investment for which ANTONUCCI sought a reward - essentially control of the Bank - and as a way to stabilize a bank that, in the eyes of the regulators, was not properly capitalized.

(4) ANTONUCCI Obtains Majority Ownership Of the Bank Holding Company As A Result Of the Sham Transactions

49. Although the source of the funds behind the purported $6.5 capital investment by CHARLES J. ANTONUCCI, SR., the defendant, was the Bank itself, ANTONUCCI attempted to reap the benefits of his sham investment. Based on ANTONUCCI's sworn statements in the Change of Control Application, ANTONUCCI acquired a total of 308,349 shares of common stock from the Bank Holding Company in exchange for his $6.5 million "personal" investment, and then sought approval from the NYSBD of the "purchase."

50. From my review of the Change of Control Application and other Bank records, I learned the following:

a. Prior to the purported $6.5 million investment, CHARLES J. ANTONUCCI, SR., the defendant, indirectly owned approximately 8,268 shares of the Bank Holding Company's common stock, for an approximate ownership interest of 1.36%.

b. On or about October 17, 2008, in exchange for his purported capital investments of $2.6 million and $2.4 million on or about October 8, 2008 and October 16, 2008, respectively, ANTONUCCI received approximately 237,191 shares of the Bank Holding Company's common stock.

c. On or about November 17, 2008, in exchange for his purported capital investment of $1.5 million, ANTONUCCI received 71,158 shares of the Bank Holding Company's common stock.

d. Accordingly, with the completion of the $6.5 million round-trip of Bank funds, ANTONUCCI went from being an approximate 1.36% shareholder of the Bank Holding Company to its majority shareholder, beneficially holding approximately 52% of the Bank Holding Company's issued and outstanding common stock.

D. ANTONUCCI's False Statements to the FDIC and Efforts to Disguise the Source of the $6.5 Million

51. The investigation to date has uncovered no evidence that CHARLES J. ANTONUCCI, SR., the defendant, ever disclosed to the Bank's Board of Directors, or to the FDIC or NYSBD, that the source of the $6.5 million he invested in the Bank was existing Bank funds. Nor have I or agents located any evidence indicating that ANTONUCCI ever disclosed his conflict of interest in approving loans to USIG, the proceeds of which were immediately transferred to him.

52. I have reviewed the Bank's Code of Ethics and Conduct that was in effect in 2008. It explicitly prohibited self-dealing by Bank employees and required employees to provide written disclosure to the Bank of any Bank matter in which the employee had an interest. As noted above, I am also familiar with FDIC "Regulation O," 12 C.F.R. § 215, prohibiting members and directors of banks from extending credit to any related interest of that person, unless it has been approved in advance by a majority of the bank's board of directors. Based on the investigation to date, no evidence has been uncovered that CHARLES J. ANTONUCCI, SR., the defendant, made any of these required disclosures.

53. From reviewing documents obtained from the FDIC and interviewing FDIC employees, I learned that, in or about the Summer of 2009, FDIC examiners began reviewing the source of the $6.5 million purported capital investment by CHARLES J. ANTONUCCI, SR., the defendant, during its examination of the Bank.

54. I have reviewed an FDIC report reflecting that on or about October 27, 2009, CHARLES J. ANTONUCCI, SR., the defendant, was interviewed by FDIC examiners and questioned about the source of the $6.5 million he invested. During that interview, the examiners presented ANTONUCCI with a diagram - similar to the one attached hereto as Exhibit A - showing the movement of funds from

Bank loan proceeds, to Oxygen Unlimited and USIG, to Bedford, and, ultimately, to ANTONUCCI. In response, ANTONUCCI stated, in substance and in part, that he had sold 25% of the shares of his company, Bedford, to CC-2 in order to raise the $6.5 million used for his purported capital investment in the Bank. ANTONUCCI denied any knowledge of the source of $6.5 million beyond his understanding that the money had come from CC-2.

55. Subsequent to the meeting, CHARLES J. ANTONUCCI, SR., the defendant, provided the FDIC examiners a copy of what appears to be an executed stock purchase agreement, dated September 1, 2008, between himself and H2H Holdings (which is one of the Oxygen-related entities). CC-2's signature appears on the agreement, signing as a "member" of H2H Holdings.

56. From the investigation conducted to date, there are numerous indicators that the sale of Bedford stock by CHARLES J. ANTONUCCI, SR., the defendant, to H2H Holdings / CC-2, was an artifice designed to cover up the true source of the $6.5 million. Those reasons include, among others:

a. As set forth above, the $6.5 million was not in fact paid to ANTONUCCI by H2H Holdings or by CC-2. Rather, those funds were transferred into the Bedford BOA Account by USIG - a company in which CC-2 had no stated ownership interest or employment. Nor was CC-2 a signatory on the USIG Checking Account.

b. If H2H Holdings purportedly purchased 25% of Bedford's stock for $6.5 million, then Bedford would be valued at approximately $26 million. However, for the reasons set forth below, it appears that the Bedford stock was not worth anywhere near that amount in September 2008.

c. For example, I have reviewed Bedford's federal tax returns, which show that, as of September 1, 2008 - when the stock shares were allegedly sold to CC-2 - Bedford had not filed tax returns for the years 2005, 2006, or 2007. The tax returns that were ultimately filed by Bedford reported net taxable income of -$33,188 for 2005, $0 for 2006[4], and -$87,849 for 2007.

d. Moreover, I have reviewed personal financial statements signed by CHARLES J. ANTONUCCI, SR., the defendant, and submitted to the Oklahoma Insurance Department in October

---

[4] Despite reporting net income of $94,419 for 2006, Bedford took that entire amount as a deduction.

2008 in connection with his purchase of an insurance company later renamed the "Park Avenue Property and Casualty Insurance Company." Specifically, ANTONUCCI submitted a personal financial statement signed by him on or about October 6, 2008 - i.e., after the purported sale of 25% of Bedford stock to H2H Holdings - in which he failed to mention any sale of Bedford stock by him. Rather, ANTONUCCI reported in that financial statement that he owned "500%" of Bedford.[5] Moreover, ANTONUCCI estimated his interest in Bedford to be worth only $5 million.

e. Records of the New York State Department of State, Division of Corporations, indicate that Bedford was dissolved and placed in "inactive" status in January 2009, a mere four months after the purported sale of stock to CC-2 for $6.5 million.

f. I have reviewed documents maintained in the files of Bedford which show that numerous versions of stock purchase agreements were prepared - some executed, some unexecuted - each purporting to sell 25 shares of Bedford stock to a different Oxygen-related entity or to USIG on September 1, 2008. From my review of those agreements, together with a review of the actual timing and sequence of the $2.6, $2.4 and $1.5 million transfers to ANTONUCCI in October and November 2008, it appears that one or more of those stock purchase agreements were prepared after the fact of the transfers.

57. Based upon all of the foregoing evidence, it appears that the sale of Bedford's stock for $6.5 million was not a bona fide transaction. Rather, it was an attempt by CHARLES J. ANTONUCCI, SR., the defendant, to cover up the unlawful, round-trip $6.5 million transaction, in which the Bank's own funds were transferred to ANTONUCCI and used by him to falsely claim that he had invested new cash into the Bank.

---

[5] Based on my review of other personal financial statements signed by ANTONUCCI and submitted to the Oklahoma Insurance Department, it appears that the "500%" ownership interest is a typographical error, and was intended to reflect that ANTONUCCI owned 100% of Bedford, which was valued at $5 million. For example, a financial statement signed by ANTONUCCI on or about March 15, 2007 - over a year before the purported sale of 25% of Bedford stock to H2H Holdings - also stated that ANTONUCCI owned "500%" of Bedford, again valued at $5 million. Similarly, a financial statement signed by ANTONUCCI on or about March 16, 2005, stated that ANTONUCCI owned 100% of Bedford, again valued at $5 million. Finally, a financial statement signed by ANTONUCCI on or about June 30, 2004, stated that ANTONUCCI owned 100% of Bedford, valued at $2 million.

IV. ANTONUCCI'S SCHEME TO FRAUDULENTLY OBTAIN TARP FUNDS

58. As set forth below in detail, in or about 2008, the Bank applied for more than $11 million dollars from the TARP Program. The FDIC had the initial responsibility to review the Bank's TARP Application and to then recommend to the Treasury Department whether the application should be approved or denied. While the Bank's TARP Application was under review by the FDIC, CHARLES J. ANTONUCCI, SR., the defendant, encouraged and caused other individuals acting on behalf of the Bank to encourage the FDIC to grant the Bank's TARP application, in part on the basis of ANTONUCCI's purported personal investment of $6.5 million in new capital. Indeed, ANTONUCCI and others, acting on behalf of the Bank, repeatedly singled out ANTONUCCI's $6.5 million capital investment as evidence that the Bank was viable and deserving of TARP Funds. However, as previously discussed in paragraphs 35 - 48 of the Complaint, ANTONUCCI's purported capital investment of $6.5 million was a sham, round-trip transaction using the Bank's own funds and was designed, at least in part, to deceive regulators about the Bank's capital position.

59. I have reviewed a Government press release showing that, on or about October 14, 2008, the Treasury Department announced the initiation of the TARP Program. The purpose of the TARP Program was to provide funds to stabilize and strengthen the nation's financial system by increasing the capital base of an array of viable institutions, enabling them to increase the flow of financing to U.S. businesses and consumers. The TARP program was only made available to qualifying banks.

60. From my review of documentation relating to the TARP Program, and from speaking to agents who work for the SIGTARP, I have learned the following:

a. One of the critical elements of the TARP qualification process was the capital position of the applicant bank.

b. Under the TARP Program, if a qualifying bank was approved for TARP funds, the Treasury Department would then purchase preferred shares of the bank's stock, to increase the bank's capital. In return, the bank would pay the Treasury dividends and agree to meet certain operating conditions.

c. The Treasury Department administered the TARP Program in consultation with appropriate federal banking agencies. The FDIC was the consulting federal agency for the Bank.

61. From my review of documents obtained from the FDIC and from speaking with a SIGTARP agent, I have learned the following:

a. On or about November 14, 2008, the Bank submitted an application to the TARP Program (the Bank's "TARP Application"). That application was initially directed to the Federal Reserve Bank of New York, and copied to the FDIC. The Bank also filed a copy of its TARP Application directly with the FDIC by letter dated November 18, 2008, which was sent by U.S. mail and by e-mail.

b. The "primary contact" listed in the Bank's TARP Application was CHARLES J. ANTONUCCI, SR., the defendant. The Bank's application requested that the Treasury Department purchase preferred stock of the Bank in the amount of $11,352,480.

c. The TARP Application was signed by the Bank's outside counsel on its behalf. In counsel's cover letter to the TARP Application, counsel specifically noted that on or about October 17, 2008 (i.e., approximately three days after the TARP Program was announced), the Bank had raised $5 million in capital through ANTONUCCI's purchase of shares of the Bank's common stock.[6] ANTONUCCI was copied on that cover letter.

d. The FDIC reviewed and assessed the Bank's TARP Application for approval or disapproval. If the FDIC had made an approval recommendation, the application would then have been forwarded to a multi-agency committee comprised of representatives from the FDIC, Federal Reserve, OCC, and Office of Thrift Supervision for further review. If the multi-agency committee approves a TARP application, it then forwards the application to the Treasury Department for a funding decision.

e. By letter dated November 21, 2008, the FDIC advised ANTONUCCI that the Bank's TARP Application had been received and would be reviewed by the FDIC. The NYSBD was copied on the letter.

---

[6] This letter refers to ANTONUCCI's $5 million purported investment made on or about October 8, 2008 and October 17, 2008 (see paragraphs 39-45, above). The letter does not refer to the $1.5 million purported investment made at around the same date of the letter, on or about November 17, 2008 (see paragraphs 46-47, above).

62. I have spoken with W-3, who at all relevant times was employed by the FDIC. W-3 has informed me, in substance and in part:

a. From in or about November 2008 through in or about February 2009, W-3 participated in the FDIC's review of the Bank's TARP Application.

b. While the Bank's TARP Application was in the process of being reviewed, W-3 had communications with CHARLES J. ANTONUCCI, Sr., the defendant, about the TARP Application. During one or more of their phone communications, ANTONUCCI stressed to the FDIC that he had made a substantial, personal capital contribution to the Bank and that this should factor in favor of the Bank's TARP Application.

c. At no time during the pendency of the Bank's TARP Application did ANTONUCCI disclose to W-3 that the originating source of funds for his capital contribution to the Bank was loan proceeds from the Bank, as set forth in paragraphs 39 - 48, above.

63. I have reviewed a document showing that on or about December 19, 2008, the Bank sent W-3, at the FDIC, its proposed capital restoration plan. The Bank sent this document at the same time as W-3 was involved in reviewing the Bank's TARP Application. It notes as an "important" matter, that CHARLES J. ANTONUCCI, SR., the defendant, had invested $5 million in October 2008, and an additional $1.5 million in November 2008, as part of the effort to stabilize and restore the Bank's capital position. The proposed equity investment term sheet, accompanying the Bank's capital restoration plan, advised potential investors of the Bank that additional sources of funds that had or would be applied toward the Bank's capital included ANTONUCCI's $6.5 investment and up to $11 million in TARP funds.

64. I have reviewed an FDIC case memorandum reflecting that, based upon the information provided to the FDIC case manager, the FDIC initially approved the Bank's TARP Application for further internal review. In drafting his recommendation, the case manager pointed out several mitigating factors for approval of the application, one of them being the additional capital funds that CHARLES J. ANTONUCCI, SR., the defendant, advised the FDIC he had invested in the Bank.

65. I have reviewed a press release issued by the Bank on or about February 13, 2009, announcing "capital infusions from management." The press release noted a "key" capital investment

of $6.5 million by management. In the press release, CHARLES J. ANTONUCCI, SR., the defendant, is quoted as stating that: "With this new round of capitalization from management, our application for additional capital from the Federal government's economic stabilization programs [i.e., the TARP Program] as well as our formal agreement with the regulators to assure stability, service, and liquidity, The Park Avenue Bank is now well positioned to grow strongly in the coming months."

66. From my review of documents obtained from the FDIC and the Bank, and from my interview of W-3, I have learned that during the period of this TARP Application review, the Bank's financial condition continued to deteriorate. Ultimately, on or about February 24, 2009, the FDIC advised ANTONUCCI that the Bank's TARP Application would not be recommended for approval, and provided the Bank with the opportunity to withdraw its application voluntarily.

67. The following day, on or about February 25, 2009, the Bank sent the FDIC a letter, which I have reviewed, withdrawing its TARP Application.

68. I have read a media interview of CHARLES J. ANTONUCCI, SR., the defendant, which was published on the internet by a banking industry publication on or about March 23, 2009, titled "Saying No to TARP: Charles Antonucci Sr., CEO, Park Avenue Bank." During that interview, ANTONUCCI is quoted as stating that the Bank withdrew its TARP Application because of "issues" with the TARP program, and the desire to avoid "market perception" that "bad bank[s]" take TARP money. ANTONUCCI is quoted as further stating that "[I]n conjunction with withdrawing the application, we are also putting additional capital in. The capital is coming primarily from myself and other members of my board. It is the insiders that are investing capital into the bank, so the message to the depositors is that at this point, I don't need TARP money, I don't necessarily want TARP money, we are a strong bank, and management is committed to putting capital in as it is needed."

V. THE COUNTERFEIT $2.3 MILLION CERTIFICATE OF DEPOSIT

69. From my review of publicly available databases, I have learned that in or about April 2009, USIG filed for bankruptcy.

70. From my review of Bank records, I have learned that at the time it declared bankruptcy, USIG had an outstanding loan balance at the Bank of approximately $2.3 million. That outstanding loan balance was attributable to the $2.3 million in

Bank loan proceeds ($800,000 obtained in October, 2008, and $1.5 million obtained in November 2008), described in paragraphs 46 - 48 of the Complaint.

71. As set forth in detail below, the investigation has revealed that in 2009, after USIG declared bankruptcy, CHARLES J. ANTONUCCI, SR., the defendant, and other co-conspirators not named herein, engaged in transactions designed to pay off USIG's $2.3 million loan using funds that they diverted from the account of another Bank customer, General Employment Enterprise, Inc. ("GEE"). At all relevant times, GEE was a publicly traded company based in Illinois. To hide the improper diversion of GEE's funds from GEE's auditors and Board of Directors, ANTONUCCI and others created a counterfeit certificate of deposit ("the $2.3 million CD"), falsely representing that GEE's $2.3 million had been invested in a 90-day certificate of deposit at the Bank. In fact, and as ANTONUCCI well knew, there was no $2.3 million CD.

72. Rather, GEE's money had been transferred into ANTONUCCI's own account at the Bank, an account held under the name of "Park Avenue Insurance, LLC, c/o Charles J. Antonucci," with the same address as the Bank's headquarters ("the Park Avenue Insurance Account"). I have learned through the investigation that Park Avenue Insurance, LLC was private entity owned by ANTONUCCI. ANTONUCCI then used the $2.3 million deposited into his Park Avenue Insurance Account to pay off the USIG loan. Later, when GEE's outside auditors requested certification from the Bank that a $2.3 million CD for GEE in fact existed, ANTONUCCI fraudulently signed a certification that the $2.3 million CD existed, when, again, as ANTONUCCI well knew, it did not. As pressure and inquiries from GEE's Board of Directors and outside auditors mounted, GEE was repaid the $2.3 million taken from its account - not by the Bank or by ANTONUCCI, but through the wire transfers of monies from various Oxygen-related entities that had no business dealings with GEE. Based on my training and experience, therefore, I believe that ANTONUCCI engaged in this conduct, at least in part, to avoid scrutiny by regulators of the $2.3 million in loans to USIG that ANTONUCCI had personally approved, and the proceeds of which were promptly transferred to Bedford, his company.

73. From reviewing publicly available records, records obtained from the Bank and GEE, and from speaking with a witness ("W-4"), who at all relevant times was a director of GEE and a member of GEE's Audit Committee, I have learned the following:

a. In or about June 2009, PSQ LLC ("PSQ") - which is one of the Oxygen-related entities discussed in paragraphs 28 - 29 of the Complaint - purchased a majority of GEE's stock and thereby obtained a controlling interest in GEE.

b. CC-2 was the owner of PSQ.

c. As part of PSQ's acquisition of GEE stock, PSQ required GEE to open an account at the Bank, and to transfer funds into that newly-opened account.

d. PSQ purchased GEE's stock with funds it obtained from another Oxygen-related entity, which were deposited into GEE's account at the Bank.

e. After PSQ purchased the majority of GEE's stock, CC-2 became Chairman of GEE's Board of Directors, and he appointed a co-conspirator not named herein ("CC-3") to be GEE's Chief Executive Officer. CC-3 was a managing director of River Falls. River Falls and at least one other Oxygen-related entity were owned by CC-1, CC-2 and CC-3, and CC-1's Assistant was the signatory on those entities' accounts at the Bank.

f. On or about July 23, 2009, $2.3 million was transferred from GEE's account at the Bank, and into the Park Avenue Insurance Account, which was controlled by CHARLES J. ANTONUCCI, SR., the defendant. According to Bank records, this transfer was authorized by CC-3.

g. On or about August 17, 2009, ANTONUCCI caused $2,322,891.25 to be transferred from the Park Avenue Insurance Account to pay off the outstanding balance on USIG's Bank loan.

74. I have been informed by W-4, in substance and in part that, in or about August 2009, one of GEE's officers noticed that $2.3 million had been transferred out of GEE's account at the Bank. The matter was brought to the attention of GEE's Board of Directors. Subsequently, W-4 and the other directors of GEE were told by CC-3 that the $2.3 million had been invested in a 90-day certificate of deposit at the Bank, and CC-3 gave GEE's Board of Directors a copy of the purported CD. GEE's board had not authorized the investment of $2.3 million into a CD, and such an investment would have violated GEE's existing investment policy. CC-3 subsequently resigned from GEE.

75. I have reviewed a copy of the CD that was given to GEE. It is titled "Certificate of Deposit Receipt." It appears to be a pre-printed form, with information typed onto the form

reflecting a certificate of deposit in the amount of "$2,300,000" million, for "90 days," with a maturity date of "10/21/09," opened by "General Employment Enterprise, Inc." on "7/23/09," with a particular related account number (the "GEE CD Account").

76. Agents and I involved in the investigation have spoken with W-1, who, as previously indicated in paragraph 31 of the Complaint, worked at the Bank as an administrative assistant to CHARLES J. ANTONUCCI, SR., the defendant. W-1 stated, in substance and in part, that s/he recognized the CD because s/he was instructed to type the information contained in it. W-1 stated that this was unusual, as W-1's job responsibilities did not include preparing certificate of deposit forms, and s/he had never done so before or since.

77. Agents and I have spoken with a Bank officer ("W-5") who stated that, in or about 2009, s/he received a request from GEE's auditors for confirmation that the GEE CD Account, containing a $2.3 million CD for GEE, in fact existed. W-5 tried to locate a record for the CD but found no evidence that it existed. W-5 did not sign the certification form sent by GEE's auditors, and was instructed to forward it to CHARLES J. ANTONUCCI, SR., the defendant, which W-5 did.

78. Agents and I have spoken with another Bank officer ("W-6") whose duties at the Bank included, among others things, opening certificates of deposit for Bank customers. W-6 stated, in substance and in part, that on approximately two occasions in or about the Summer of 2009, CHARLES J. ANTONUCCI, SR., the defendant, asked W-6 for blank certificates of deposit forms. W-6 gave the ANTONUCCI the requested blank forms. W-6 further stated that, in or about November 2009, W-6 was presented with the $2.3 Million CD, for the first time, by CC-1 at a Bank meeting. The CD was typed onto the same pre-printed form that W-6 had previously given to ANTONUCCI in blank form. W-6 recognized the CD to be a fraudulent document because of the substance and format of how the information had been typed in the document. W-6 also confirmed that no CD account for $2.3 million had ever been created for GEE at the Bank. In or about November 2009, W-6 learned that ANTONUCCI had signed a certification to GEE's auditors, certifying the existence of a $2.3 million certificate of deposit for GEE. This was unusual to W-6 because, ordinarily, such auditor certification requests were handled by W-6 and W-6's staff, and not by ANTONUCCI.

79. I have reviewed a bank account confirmation document dated September 30, 2009, sent by BDO Seidman, LLP, ("BDO Seidman"), auditors of GEE, to the Bank. The document requests

confirmation of the GEE CD Account and the balance of that account. I have reviewed the certification returned by the Bank to BDO Seidman, which certification was signed by CHARLES J. ANTONUCCI, SR., the defendant, as Bank President, on or about October 2, 2009. In that certification, ANTONUCCI falsely certified the existence of the GEE CD Account, with a handwritten notation of a balance of $2.3 million.

80. I have reviewed GEE records reflecting that between on or about November 24, 2009 and on or about December 9, 2009, GEE received wire transfers totaling $2.3 million into its bank accounts from the various Oxygen-related entities, including SDH Realty Inc., Oxygen Unlimited, O2HR, and River Falls. I have been informed by W-4 that GEE had no business relationship with any of those entities.

VI. THE FLORIDA INVESTMENT SCAM

81. Agents with whom I have spoken have interviewed two Florida residents ("Victim-1" and "Victim-2," collectively "the Victims"), who were the victims of an investment scam involving CHARLES J. ANTONUCCI, SR., the defendant, and others. Victim-1 and Victim-2, who were separately interviewed, and who provided corroborating information to one another, reported the following in substance and in part:

a. At all relevant times, the Victims were pastors of a chapel in Coral Springs, Florida. Victim-1 was the associate pastor of the church, and Victim-2 was the pastor and president of the church. The church congregation met at a rented store-front property in Coral Springs. In or about 2009, Victim-1 and Victim-2, and members of their congregation, decided to pursue plans for building a new church for their congregation. the Victims hired an architect to draw up plans for the new church, spoke with contractors, and looked into financing options.

b. In or about 2009, the Victims were introduced to a co-conspirator not named herein ("CC-4"). CC-4 said he could assist them in obtaining financing for the new church construction.

c. In the ensuing weeks, the Victims had a number of phone conversations and meetings in Florida with CC-4. During those various conversations and meetings, CC-4 stated that he worked for The Park Avenue Bank and that his bosses were CHARLES J. ANTONUCCI, SR., the defendant, and CC-1. CC-4 also represented to the Victims, among other things, that he was an attorney, but that his license was "on hold" because of a

conflict relating to his employment by the Bank. (Based upon the review by myself and agents of Bank records, and the interview of Bank officers, directors and employees, I have learned that, in fact, neither CC-4 nor CC-1 worked for the Bank.)

d. At first, the Victims discussed with CC-4 applying for a conventional loan through the Bank to fund the construction of the new church. However, CC-4 informed the Victims that the Bank would not approve a conventional loan for the project.

e. Instead, CC-4 proposed that the Victims raise money for the church construction by investing in a short term bond deal. CC-4 told them that one of his responsibilities for the Bank involved selling millions of dollars worth of discounted treasury bonds in foreign countries. At a meeting that the Victims had with CC-4 in or about June 2009, in Florida, CC-4 showed them documentation purportedly relating to his treasury bonds work. CC-4 told the Victims that if they purchased a bond in the amount of $103,940, then CC-4 would borrow up to four times the value of the bond in foreign markets, and pay the Victims back the maturity value of the bond, in the amount of $604,848, within two to three weeks.

f. CC-4 further explained that their payment for the treasury bond should be made to "Park Avenue Insurance," an entity that CC-4 said was a subsidiary of the Bank and that would guarantee the bond. As previously discussed, CHARLES J. ANTONUCCI, SR., the defendant, owned Park Avenue Insurance, a private entity unrelated to the Bank, and controlled the Park Avenue Insurance Account.

g. Victim-1 and Victim-2, who were not experienced investors and were unfamiliar with the kind of transactions described by CC-4, believed that this was a legitimate investment opportunity that could generate the funds they needed to begin construction on the new church.

h. Before agreeing to the bond deal, in or about June 2009, the Victims, and the wife of Victim-1, called the Bank and asked for CC-4, in an effort to verify his legitimacy. In response, they were told by an unidentified female at the Bank that CC-4 was not in at the time. Based upon this response, the Victims believed that CC-4 in fact worked for the Bank.

i. On or about July 2, 2009, the Victims gave CC-4 a letter seeking additional verification that, among other things, CC-4 was employed by the Bank, and that Park Avenue Insurance, LLC was in fact affiliated with the Bank. I have reviewed a copy

of that letter, which is dated July 2, 2009.

j. On or about July 2, 2009, the Victims met with CC-4 in Florida. CC-4 provided what they believed at the time to be satisfactory answers to their questions. At the meeting, CC-4 provided them with a document that purported to reflect CC-4's handling of a similar transaction on behalf of another client. Victim-1 provided a copy of that document to agents, and I have reviewed it. It purports to be an e-mail communication involving CC-4, CC-1, and CC-1's Assistant, reflecting the wire transfer of $10 million of another client's money to the Park Avenue Insurance Account for the "Park Avenue Insurance Bond Transaction." At the meeting, CC-4 also gave the Victims a copy of his Colorado driver's license, and a copy of his business card, and which state that CC-4 was Chief Executive Officer of the "[CC-4] Financial International Investment Group," an entity he said was set up by The Park Avenue Bank to handle these types of foreign deals.

k. On or about July 2, 2009, the Victims agreed to the bond deal with CC-4. They executed an agreement prepared by CC-4, which I have reviewed. It is dated July 2, 2009, and is an agreement between "[CC-4] Financial International Investments" and the church. The agreement provided for a payment of $103,940 (specifying that the payment would be made by check from the bank account that Victim-1 and Victim-1's wife maintained at Wachovia bank) to purchase a "performing asset." The agreement further stated that:

> "Based upon agreements between [the Church] and [CC-4] Financial[,] payout of face value of said performing asset is scheduled for July 10th, 2009 in the amount of $302,414.24. Second payout of face value of performing asset scheduled for July 17th, 2009 in the amount of $302,414.24."

The agreement was signed by CC-4 on behalf of "[CC-4] Financial International Investments," and by Victim-2, as president of the church.

l. After signing the agreement, Victim-1 gave CC-4 a personal check from his Wachovia account, in the amount of $103,940.00. CC-4 took the check and told the Victims that he would go to The Park Avenue Bank, in New York, to handle the transaction.

m. Soon thereafter, CC-4 called Victim-1 stating that the Bank would not accept Victim-1's check, and that Victim-1 had to wire transfer the money into the Park Avenue Insurance Account. CC-4 gave Victim-1 the wire-transfer instructions. Following CC-4's instructions, on or about July 3, 2009, Victim-1 wired the amount of $103,940 from his account at Wachovia Bank in Florida, to the Park Avenue Insurance Account in Manhattan. I have reviewed bank documentation confirming that this wire of funds in fact occurred and the monies were received into the Park Avenue Insurance Account.

n. The Victims did not receive any money on July 10 or July 27, 2009, as provided for in their agreement with CC-4. After numerous unsuccessful attempts to reach CC-4, CC-4 called them, claiming among other things to have been ill and out of the country.

o. On or about July 28, 2009, the Victims met with CC-4 in Florida. CC-4 assured them that he would get them their money. CC-4 told them that, because he felt so bad about the delay, he would increase the return on their investment to $800,000, so long as they agreed to reinvest $150,000 of those proceeds into the bond deal. At the meeting, CC-4 handwrote another agreement, which I have reviewed, providing for the payment of $800,000 to the Victims by the deadline of August 5, 2010 by 2:00 p.m. That follow-up agreement was dated July 28, 2009, and was signed by Victim-2, on behalf of the church, and by CC-4.

p. The July 28, 2009 meeting was the last time that the Victims ever saw or spoke to CC-4. The Victims did not receive any money from CC-4 on August 5, 2010, or at any time thereafter. Their numerous efforts to reach CC-4 by phone, email and text message were unsuccessful. I have reviewed a copy of email and text messages that Victim-2 sent to CC-4 on August 5, 2010.

q. On or about August 17, 2009, Victim-1 called The Park Avenue Bank and spoke with ANTONUCCI. Victim-1 told ANTONUCCI that he was trying to reach CC-4 urgently. ANTONUCCI told Victim-1 that CC-4 was not in, but that ANTONUCCI would get a message to CC-4 as soon as he could. ANTONUCCI's statements on the phone further caused Victim-1 to believe that CC-4 in fact worked for the Bank.

r. On or about August 24, 2009, Victim-1 wrote a letter to ANTONUCCI, which I have reviewed, demanding the return within 48 hours of the money Victim-1 had wired into the Park

Avenue Insurance Account (the "August 24 Demand Letter").[7] The August 24 Demand Letter recounted the circumstances under which CC-4, "in representing your bank," had persuaded the church to purchase a treasury bond. The letter further recounted how, during one meeting that the Victims had with CC-4, they had heard CC-4 discuss the treasury bond transaction with ANTONUCCI over the phone. I have also reviewed a copy of a Federal Express receipt provided to agents by Victim-1, showing that the August 24 Demand Letter was sent by Victim-1 to ANTONUCCI, via Federal Express, on or about August 25, 2009, and that it was delivered on or about August 26, 2009.

s. After sending the August 24 Demand Letter to ANTONUCCI, Victim-1 did not receive any return of the money he had wired to the Park Avenue Insurance Account. After sending the letter, he received a telephone call from CC-1, who told Victim-1 that he would "try" to help Victim-1 get his money back, and that CC-4 did not work for the Bank. Based upon that phone call and CC-4's earlier representations, Victim-1 believed that CC-1 worked for the Bank.

t. On or about September 3, 2009, Victim-1 sent a letter, by Federal Express, addressed to CC-1 at the Bank. I have reviewed a copy of the letter, and of the Federal Express receipt showing that it was delivered to the Bank on or about September 4, 2009. The letter enclosed a copy of the wire transfer documentation showing that Victim-1 had wired $103,940 to the Park Avenue Insurance Account. In the letter, Victim-1 asked CC-1 to investigate, stating that it seemed that "CC-4 and the employees of the Park Avenue Bank are all connected in this fraud." The letter also asked a number of questions about ANTONUCCI's and CC-4's conduct up to that point.

u. In or about September 2009, Victim-1 went to the Bank's headquarters at 460 Park Avenue in Manhattan. In response to his requests to see ANTONUCCI, he was told that ANTONUCCI was unavailable and that he could not see ANTONUCCI without an appointment. Victim-1 left the Bank.

v. Shortly after his visit to the Bank, Victim-1 received a call from CC-1. In the call, CC-1 berated Victim-1 for having gone to the Bank, and threatened Victim-1 never to do

---

[7] As part of this investigation we have obtained copies of the August 24 Demand Letter, both from Victim-1 and from the Bank, further corroborating that the letter was received by the Bank.

so again.

w. I have reviewed a letter dated October 1, 2009, that Victim-1 sent to ANTONUCCI (the "October 1, 2009 letter"), as well as the Federal Express receipt showing that the letter was delivered to the Bank, to ANTONUCCI's attention, on or about October 5, 2009.[8] The letter informed ANTONUCCI that due to "the lack of communication from your representatives [CC-1] and [CC-4], we feel that we have no other recourse to resolve this matter than with the proper authorities. We felt that you, as the President of the bank, would make every effort to investigate this fraud but you hav[e] passed this off to [CC-1] who had said he would help, but has been discourteous [and] threatening. . ." The letter also stated that the church was giving the Bank "one last opportunity," within the next 24 hours, to return the $103,940.00 that had been wired into the Park Avenue Insurance Account.

x. Victim-1 and Victim-2 never received any response from ANTONUCCI to the October 1, 2009 letter, and as of the date of this Complaint, they have not received any of their money back.

82. I have reviewed the Bank records for the Park Avenue Insurance Account. Those records show the following:

a. Account statements at the Bank state that the account is held under the name of "Park Avenue Insurance, LLC, c/o Charles J. Antonucci," with the same address as the Bank's headquarters.

b. On or about July 3, 2009, a wire in the amount of $103,940 was received into the account from Victim-1.

c. On or about July 7, 2009, ANTONUCCI signed a check payable to CC-4, in the amount of $3,500. "

d. On or about July 7, 2009, ANTONUCCI signed a check payable to CC-4 in the amount of $15,000.

e. On or about July 9, 2009, ANTONUCCI transferred $60,000 from the Park Avenue Insurance Account to his personal account.

---

[8] As part of this investigation we have obtained copies of the October 1, 2009 letter, both from Victim-1 and from the Bank, further corroborating that the letter was received by the Bank.

f. On or about August 12, 2009, ANTONUCCI signed a check payable to CC-4 in the amount of $5,000.

g. On or about August 12, 2009, ANTONUCCI signed a check payable to CC-4 in the amount of $12,000.

h. Accordingly, in the five-week period after Victim-1 wired $103,940 into ANTONUCCI's Park Avenue Insurance Account, ANTONUCCI distributed $35,500 of those funds to CC-4 and transferred $60,000 to his personal account.

83. Agents and I have spoken with W-1, who, as previously referenced in this Complaint, worked as the administrative assistant to CHARLES J. ANTONUCCI, SR., the defendant. W-1 stated, in substance and in part, that:

a. In or about the Spring and Summer of 2009, W-1 saw CC-4 at the Bank's headquarters, at 460 Park Avenue, 13th floor, in Manhattan, on 10 or more occasions. W-1 saw CC-4 and CC-1 meet with ANTONUCCI, in ANTONUCCI's office at the Bank, on multiple occasions.

b. W-1, who opened mail for ANTONUCCI, received the August 24, 2009 and October 1, 2009 letters that Victim-1 sent to ANTONUCCI, and W-1 gave those letters to ANTONUCCI.

c. In or about September 2009, ANTONUCCI directed W-1 to book and purchase airline tickets for CC-4, for a flight from the United States to Switzerland. W-1 did so.

VII. EMBEZZLEMENT AND MISUSE OF BANK RESOURCES BY ANTONUCCI

A. The Fishkill Leases

84. Between in or about 2006 and 2009, CHARLES J. ANTONUCCI, SR., the defendant, arranged for the Bank to lease space from three properties that ANTONUCCI owned in Fishkill, New York. However, the Bank, despite paying rent and expenses to ANTONUCCI-owned entities for each of the three properties, used only one of these properties.

(1) 1042 Main Street

85. Based on my review of Bank and other documents, as well as interviews with Bank employees and directors, I have learned that, in or about 2006, the Bank entered into a 10-year lease agreement with 1042 Main Street, LLC, to use the premises of 1042

Main Street, Fishkill, New York ("1042 Main Street"). The lease agreement required that the Bank pay $27,180 per year, with subsequent annual increases of 3%, plus a pro-rata share of real estate taxes. In or about July 2008, the Bank entered into an agreement with 1042 Main Street, LLC, to extend the terms of the original lease agreement for an additional five years, with modifications, until 2021.

86. Based on interviews of Bank employees and directors that agents and I have conducted, documents from the Bank and other entities, and physical surveillance of the property conducted by agents, I have learned that:

a. 1042 Main Street is a two-story house with a separate structure located behind the house;

b. The first floor of 1042 Main Street is occupied by Bedford, which, as discussed above in paragraphs 16 and 56, is owned by ANTONUCCI;

c. In the Change of Control Application submitted under to the NYSBD (see paragraph 14, above), ANTONUCCI represented under penalty of perjury that he had a 20% ownership interest in 1042 Main Street, Fishkill, New York;

d. ANTONUCCI signed a March 1, 2007 lease agreement between Bedford and 1042 Main Street, LLC, as both "Landlord" and "Tenant";

e. Several of the Bank's employees have used the second floor of 1042 Main Street as an office in connection with their work for the Bank;

f. The structure behind the house at 1042 Main Street was built to house the Bank's information technology disaster recovery equipment;

g. From in or about 2006 up to and including 2007, the Bank paid in excess of approximately $750,000 for construction of the structure; and

h. Additionally, from in or about 2005 up to and including 2010, the Bank paid in excess of approximately $240,000 in rent and expenses for 1042 Main Street.

(2) 2 Broad Street

87. Based on my review of Bank and other documents, as well as interviews with Bank employees and directors conducted by myself and agents, I have learned that, in or about July 2008, the Bank entered into a 15-year lease agreement with 2 Broad Street, LLC, to use the premises of 2 Broad Street in Fishkill, New York ("2 Broad Street").[9] The lease agreement required that the Bank pay a minimum of $26,021.04 per year, with the annual lease amount increasing by approximately $780-$1,100 each year.

88. I have interviewed W-2, who signed the aforementioned lease agreement on behalf of the Bank. W-2 stated, in substance and in part, that ANTONUCCI told him/her that 2 Broad Street would be used as a disaster recovery site for the Bank.

89. However, based on my review of Bank and other documents, interviews of Bank employees, including W-2, and directors conducted by myself and agents, and physical surveillance of the property conducted by agents, I have learned that:

a. 2 Broad Street consists of a two-story house;

b. 2 Broad Street was never used by the Bank;

c. Nevertheless, from in or about 2008 up to and including in or about 2010, the Bank paid in excess of approximately $64,000 in rent and expenses for 2 Broad Street; and

d. In his Change of Control Application submitted under penalty of perjury to the NYSBD, ANTONUCCI represented under penalty of perjury that he had a 20% ownership interest in 2 Broad Street, Fishkill, New York.

(3) 48 Jackson Street

90. Based on my review of Bank and other documents, as well as interviews with Bank employees and directors conducted by myself and agents, I have learned that, in or about October 2008, the Bank entered into a 15-year lease agreement with 48 Jackson Street, LLC, to use the premises of 48 Jackson Street in

---

[9] The lease agreement states that 2 Broad Street, LLC maintains offices at 1042 Main Street, Fishkill, New York, the same location as Bedford.

Fishkill, New York ("48 Jackson Street").[10] The lease agreement required that the Bank pay a minimum of $27,600 per year, with the annual lease amount increasing by approximately $800-$1,200 each year.

91. I have interviewed W-7, who stated, in substance and in part, that ANTONUCCI told him/her that 48 Jackson Street was to be used as a storage and/or disaster recovery site for the Bank.

92. However, based on my review of Bank and other documents, interviews of Bank employees, including W-7, and directors conducted by myself and agents, and physical surveillance outside of the property conducted by agents, I have learned that:

a. 48 Jackson Street consists of a two-story house;

b. 48 Jackson Street was never used by the Bank;

c. Nevertheless, from in or about 2008 up to and including 2010, the Bank paid in excess of approximately $44,000 in rent and expenses for 48 Jackson Street;

d. In his Change of Control Application submitted to the NYSBD, ANTONUCCI represented under penalty of perjury that he had a 20% ownership interest in 48 Jackson Street, Fishkill, New York; and

e. Despite having an interest in 48 Jackson Street, LLC, ANTONUCCI signed the lease agreement for 48 Jackson Street on behalf of, and as President of, the Bank.

B. TSV Capital/TSV Group

93. I have reviewed Bank records reflecting the following transactions involving TSV Capital, and TSV Group:

a. In or about November 2008, an account was opened at the Bank in the name of TSV Capital. One of the signers on the account was CC-2, and the mailing address for TSV Capital was the same address used for the other Oxygen-related entities. (See paragraphs 28 - 29, above).

---

[10] The lease agreement states that 48 Jackson Street, LLC maintains offices at 1042 Main Street, Fishkill, New York, the same location as Bedford.

b. The TSV Capital account was opened with a zero balance.

c. On or about November 25, 2008, CC-2 wrote two checks drawn on the TSV Capital account: (i) a $35,000 check made payable to "TSV Group"; and (ii) a $32,000 check made payable to an entity called "Click Click Media." Click Click Media appears to be a company related to TSV Capital, as it had many of the same principals as TSV Capital.

d. There was no money in TSV Capital's account when these checks were written. However, on or about December 2, 2008, the $67,000 overdraft was approved by a co-conspirator not named herein ("CC-5"), who was an officer of the Bank and who reported to CHARLES J. ANTONUCCI, SR., the defendant. Accordingly, the Bank paid out on the checks.

e. Because there was no money in TSV Capital's account when these checks were written, the issuance, and the Bank's subsequent honoring, of these checks, resulted in an overdraft in the amount of $67,000.

f. The $67,000 overdraft on the TSV Capital account was never repaid and, in or about November 2009, it was charged off by the Bank, causing a loss to the Bank of $67,000.

94. In his Change of Control Application filed with the NYSBD, CHARLES J. ANTONUCCI, SR., the defendant, represented under penalty of perjury that he owned 20% of TSV Group.

95. The investigation to date has not uncovered any evidence that CHARLES J. ANTONUCCI, SR., the defendant, disclosed to the Board of Directors his ownership interest in TSV Group, or disclosed the fact that TSV Capital's $67,000 overdraft was due in part to TSV's transfer of Bank funds to TSV Group.

CONCLUSION

WHEREFORE, I respectfully request that an arrest warrant be issued for CHARLES J. ANTONUCCI, SR., the defendant, and that he be arrested and imprisoned, or bailed, as the case may be.

RICARDO E. VELEZ
DIRECTOR OF CRIMINAL INVESTIGATIONS
NEW YORK STATE BANKING DEPARTMENT

Sworn to before me this
13th day of March 2010

S/ Debra Freeman
HONORABLE DEBRA FREEMAN
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK

Exhibit A

The $6.5 Million Roundtrip Transaction